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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,413	07/08/2004	Michael E. Jansen	62991-015	5159
33401 7590 09/15/2009 MCDERMOTT WILL & EMERY LLP 2049 CENTURY PARK EAST 38th Floor LOS ANGELES, CA 90067-3208			EXAMINER VANDERHORST, MARIA VICTORIA	
			ART UNIT 3688	PAPER NUMBER
			NOTIFICATION DATE 09/15/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto33401@mwe.com

Office Action Summary

Application No.

10/710,413

Applicant(s)

JANSEN, MICHAEL E.

Examiner

M. VICTORIA VANDERHORST

Art Unit

3688

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Response to Amendment

This communication is in response to the amendment filed on 05/22/2009 for the application No. 10/710,413. Claims 1-28 have been cancelled. Claim 29 is currently pending and has been examined. Claim 29 has been rejected.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Standard, US PG. Pub. No. 2004/0133907 (Rodriguez) in view of US Patent No. 6,848,219 (Standard).

As to claim 1, Rodriguez discloses a system for content delivery comprising:
an input system configured to receive information indicative of the arrival of each of the patrons at the theater (Rodriguez teaches, "...The present invention relates to digital broadband delivery systems. More particularly, the invention relates to management of bandwidth allocation in a digital broadband delivery system...", paragraph 0002.

Further, Rodriguez teaches, "...a subscriber can interact with the DBDS to request services, such as Pay-Per-View programming, View-On-Demand programs, more comprehensive EPG data for desired programs, and data associated with VOD programs and services...", paragraph 0037. By analogy the Examiner interprets the request of a desired program by a subscriber as arrival of each of the patrons at the theater);

a timing system configured to determine when a predetermined time period has elapsed after the arrival of the first of the patrons at the theater (Rodriguez teaches that in his system the subscriber can have unrestricted random access functionality to allow demand for a movie at the time of their choice, paragraph 0078.

In addition, Rodriguez teaches that his system can determine when a user initiates a request for content, by analogy arrival of the first patron at the theater, paragraphs 0062-0064.

Further, Rodriguez teaches that upon receive of the request for content, content can be transmitted using any of the known delivery mode or a combination of them, paragraph 0065. The bandwidth allocation manager dynamically assigns a content delivery mode, paragraph 0011.

Furthermore, Rodriguez teaches that the NVOD capability provides staggered start time, by analogy time period after the first of the plurality of patrons arrives to the theater, "...if the bandwidth allocation manager 130 receives a large number of requests for particular video content such as a popular movie to be transmitted at approximately the same time, the bandwidth allocation manager 125 may allocate several channels to broadcast that content according to an NVOD delivery model so that the most highly requested video content is available without necessitating initiation of a VOD session. The bandwidth allocation manager 125 may also

provide the ability to broadcast the video content in progressively non-decreasing staggered start times or non-linear time-spaced intervals so that a greater number of subscriber requests can be fulfilled...”, paragraph 0069); and

a processing system configured to:

receive the information indicative of the arrival of each of the patrons at the theater (Rodriguez teaches , “...For example, if the bandwidth allocation manager 130 receives a large number of requests for particular video content such as a popular movie to be transmitted at approximately the same time, the bandwidth allocation manager 125 may allocate several channels to broadcast that content according to an NVOD delivery model so that the most highly requested video content is available without necessitating initiation of a VOD session. The bandwidth allocation manager 125 may also provide the ability to broadcast the video content in progressively non-decreasing staggered start times or non-linear time-spaced intervals so that a greater number of subscriber requests can be fulfilled...”, paragraph 0069) and to cause the projector to begin projecting the motion picture at the earlier of the following times:

when the timing system indicates that the pre-determined time period after the first of the plurality of patrons arrives at the theater has elapsed (Rodriguez teaches staggered started times capability. By analogy the Examiner interprets the total number of subscriber requests to be fulfilled as the plurality of patrons that arrives at the theater and the staggered start time as the pre-determined time to start the motion picture, Paragraphs 0069-0070), or

when the information from the input system indicates that a pre-determined number of the patrons has arrived at the theater (Rodriguez teaches, "...The subscriber, in most cases, will not even be aware that they are sharing their reserved viewing times with other subscribers. Advantageously, the bandwidth allocation manager provides the ability to broadcast the video content in an efficient manner that frees bandwidth previously allocated but unused and allows more subscribers to purchase a movie and reduces the likelihood of not granting service to subscribers wishing to view a movie...", paragraph 0070); and

adjust the pre-determined time period and the pre-determine number of patrons based of the time of day, the popularity of the motion picture, and the number of theaters within the complex (Rodriguez teaches that his solution has an statistical model that has the objective of maximize the total number of subscriber requests fulfilled , "...The analysis of bandwidth consumption history may also comprise analysis of the bandwidth usage pattern according to the respective day of week, time of day, time of year, proximity of time to holidays, and other time events. The predetermined model may also take into account demographics and geographic characteristics...", paragraph 0071.

By analogy, the number of theaters within the complex is considerer the number of channels broadcasting content according to an NVOB delivery model, paragraph 0069).

Here, Rodriguez does not directly disclose a projector for projecting the motion picture in the theater.

However, Standard discloses a projector for projecting the motion picture in the theater (Standard discloses an adaptable theater and multiplex that comprises a projection screen and projection room, Abstract. The theater can be networked to a digital video distribution system, wherein videos are transmitted digitally to the theater and projected using a digital video projection system, Col. 2:34-45.

Further, Standard teaches, “...a modified movie theater having a projection screen is provided which includes a digital projector configured to project digital image sequences onto the projection...”, Col. 2: 46-50);

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to incorporate Standard's teaching into the system of Rodriguez. One would have been motivated to combine the digital features of request movies and staggering start times with the digital adaptable theater of Standard's system to thereby expand the field of use of the system by utilizing the VOD techniques in a (movie) theater, while increasing the system owner's economic bottom line by employing his techniques in another similar environment and reaching more patrons or a larger audience, which in the end renders the system more popular.

Response to Arguments

3. The rejection under 35 U.S.C 101 for claims 1-12 have been withdrawn because Applicant cancelled the claims.

4. The rejection under 35 U.S.C 112 for claims 1-5 have been withdrawn because Applicant cancelled the claims.

5. Applicant's arguments filed on 05/22/2009 have been fully considered. The arguments regarding rejections under 35 U.S.C 103 are now moot in light of the above new grounds of rejection.

6. *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. VICTORIA VANDERHORST whose telephone number is (571)270-3604. The examiner can normally be reached on regular.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Weinhardt can be reached on 571 272 6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. V./
Examiner, Art Unit 3688

/Jean Janvier/

Primary Examiner, Art Unit 3688